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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/646,944

08/21/2003

Jerry M. Brownstein

BROW0005

2977

7590

01/22/2007

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EXAMINER

COLE, ELIZABETH M

ART UNIT

PAPER NUMBER

1771

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

01/22/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/646,944

Applicant(s)

BROWNSTEIN ET AL.

Examiner

Elizabeth M. Cole

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1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 57-60, 62, 63, 65-72 and 91-95 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 57-60, 62, 63, 65-72 and 91-95 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 57, 60-61, 64- 70, 71, 91 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mendes, U.S. Patent No. 5,779,392 in view of JP 63221187, O'Donnell et al, U.S. Patent No. 5,308,497 and DE 3,739,899 Mendes discloses a porous containment means having a plurality of hydrophobic, oleophilic organic fibers disposed therein to absorb and contain oil spills. See col. 3, lines 45-50. Mendes differs from the claimed invention because Mendes does not disclose employing delustered fibers and does not disclose that the fibers should be formed by shredding waste. JP '187 teaches that titanium dioxide which is a conventionally used delustrant can be incorporated into organic fibers which are to be used to absorb oil JP '187 teaches that titanium dioxide is an active filler and that it enhances the ability of the fibers to absorb oil. See abstract. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed fibers which incorporated titanium dioxide as the oleophilic fibers in Mendes, motivated by the teaching of JP '187 that the use of the titanium dioxide will increase the ability of the fibers to absorb oil. With regard to the step of shredding waste materials, O'Donnell teaches shredding waste fibrous material in order form a fibrous material from the waste materials which can be used as an oil adsorbent. See col. 3, line 64-col. 4, line 15. O'Donnell teaches that shoddy is a suitable source for this waste material. See col. 2.

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lines 23-35. Therefore, it would have been obvious to have employed shredded waste materials in order to form the adsorbent materials of Mendes. One of ordinary skill in the art would have been motivated to employ waste material such as shoddy by the teaching of O'Donnell that such materials are suitable for use for this purpose. With regard to the length of the fibers and the amount of large pieces present in the mixture, O'Donnell teaches controlling the length of the fibers by how much shredding or grinding the fibers are subjected to. See col. 3, line 64-line 15.

3. With regard to the step of sorting the scrap, O'Donnell does not teach the step of sorting the scarp. DE '899 teaches that in methods wherein scarp materials are to be recycled for re use, that the natural and synthetic materials can be separated prior to shredding. See page 1 of the translation, first full paragraph. Therefore, it would have been obvious to have sorted the scrap in order to separate the different materials before the materials are further processed by shredding, etc., motivated by the teach of DE '899 that pre sorting before shredding produces clean separation of the natural and synthetic materials.

4. With regard to the relative proportions of synthetic and natural fibers, DE '899 teaches using almost all natural fibers as the oil adsorbent material. Mendes and JP '187 teach using all synthetic fiber materials as the oil adsorbent material. O'Donnell teaches that natural fibers, synthetic fibers and blends of the two can be used, and does not specify particular amounts of each, although O'Donnell does teach an example of shoddy which comprises 50 percent cellulose and 40 percent polyester. Therefore, the person of ordinary skill in the art at the time the invention was made would have been

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motivated to employ all synthetic fibers, all natural fibers and blends of the two and would have been able to select appropriate amounts of each through the process of routine experimentation, in order to arrive at a material having good adsorption properties, which used the materials which were readily available and cost effective.

5. Claims 58-59, 63, 92-95 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mendes, U.S. Patent No. 5,779,392 in view of JP 63221187, O'Donnell and DE '3,728,899 applied to claims above, and further in view of Mesek et al, U.S. Patent No. 4045833. Mendes does not teach the use of both long and short fibers.

With regard to the use of long and short fibers, Mesek et al teaches at col. 1, lines 52-68, that employing both long and short fibers in a nonwoven fabric enhances the strength, structural stability and integrity of the fabric. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed long and short fibers in the fibrous mass of Mendes. One of ordinary skill in the art would have been motivated to employ long and short fibers in order to enhance the strength and integrity of the nonwoven. It would have been obvious to have optimized the particular lengths and proportions of the fibers in order to obtain a nonwoven having the desired combination of strength and absorbency.

6. Applicant's arguments filed 11/9/06 have been fully considered but are moot in view of the new grounds of rejection.

7. Applicant's previous amendment had overcome the 102(b) rejection of claim 71 since JP '187 does not teach a method which includes the step of employing recycled fibers. The rejection was repeated in error.

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8. With regard to O'Donnell, Applicant argues that O'Donnell requires the use of a cross-linked resin coating on the fibers, in order to render them hydrophobic, while the instant invention does not use such a coating. However, the instant claims do not preclude such a coating, either, and therefore the rejection with regard to O'Donnell is maintained.

9. Applicant's argument that none of the art teaches the sorting step and controlling the relative amounts of the natural and synthetic fibers is persuasive and a new rejection is set forth above. DE '899 teaches the presorting step. While DE '899 teaches employing the natural fibers as the oil adsorbent material, as set forth above, Mendes and JP '187 both teach employing the synthetic fibers, while O'Donnell teaches that reprocessed fibers which can be either, natural, synthetic, and mixtures of the two are useful in forming oil adsorbent materials. Therefore, the prior art teaches that oil adsorbent materials can be made from all synthetic fibers, from all natural fibers, and from mixtures and blends of the two, and that the fibers can be reprocessed fibers, since such fibers are cost effective and environmentally friendly. Therefore, the person of ordinary skill in the art would have been able to select the particular types and amounts of fibers which produced the best and most economical adsorbent material through the process of routine experimentation.

10. Applicant argues that none of the cited art teaches that the sorting process should be such that less than 10 percent natural fibers are included in the adsorbent. However, as set forth above, synthetic fibers, natural fibers and blends of both are all taught by the prior art and therefore, the person of ordinary skill would have been able to select the particular amounts and types of fibers based on what fibers were available and cost effective and what fibers produced the best adsorbent.

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11. With regard to the steps of removing flags and large pieces of fibers, O'Donnell teaches that the steps of grinding and shredding can be performed until the fiber material has been processed to the desired length and degree of separation.

12. With regard to the Declaration previously submitted, as set forth in the previous action, the Declaration was sufficient to overcome the rejection set forth in the action of 3/29/06, however, since O'Donnell teaches the benefits of using shoddy to form the oil adsorbent material, the Declaration was not sufficient to overcome the rejection employing O'Donnell.

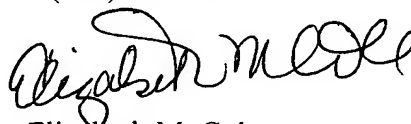
13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (571) 272-1475.

The examiner may be reached between 6:30 AM and 6:00 PM Monday through Wednesday, and 6:30 AM and 2 PM on Thursday.

Mr. Terrel Morris, the examiner's supervisor, may be reached at (571) 272-1478.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The fax number for all official faxes is (571) 273-8300.



Elizabeth M. Cole
Primary Examiner
Art Unit 1771

e.m.c